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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,334	01/31/2001	Arlene Balto	99999-0100US01	4268

28863 7590 12/31/2003  
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EXAMINER

COLLINS, TIMOTHY D

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 12/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/773,334

Applicant(s)

BALTO, ARLENE

Examiner

Timothy D Collins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6, 7, 9-11 and 14-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7, 9-11, 14-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. In view of the appeal brief filed on 10/23/03, PROSECUTION IS HEREBY REOPENED. While any delay in the prosecution of the case is regretted, new grounds of rejection are set forth below and this action is made non-final.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Applicant's arguments with respect to claims 1-3,6,7,9-11, and 14-19 have been considered but are moot in view of the new ground(s) of rejection, however some have been responded to so as to make the record clear.

- a. Re applicant's argument that the examiner has used the features of making the device "to allow for easier handling and transportation". This feature and the other which is to make the "device more portable and to keep the syringe from falling or moving around and pulling out of the animal" are not found in the specification of the applicants application. The examiner maintains that these reasons for the combination in the previous actions are not in the application and

therefore cannot be considered hindsight. The examiner had different reasons for combining and therefore a proper basis for rejection had been made. If the applicant considers this improper the examiner asks that the applicant point out the specific lines of the specification that the examiner found these features.

Also it is still noted that the applicant first called these "features" or "advantages" and therefore agrees that the examiner has found a proper reason for making a combination. Refer to applicants argument in paper number 11, on page 5.

b. Re applicant's argument that the reference does not show a syringe. The examiner maintains that the reference shows a syringe at least because the definition of a syringe is "A medical instrument used to inject fluids into the body or draw them from it" (see dictionary.com and other dictionaries), also as seen in the figure of USPN 3897751 a needle 38 is seen and the number 31 is called an infusion pump and it is used for injecting fluids into the body of the animal through the catheter.

c. For further response see rejections below.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

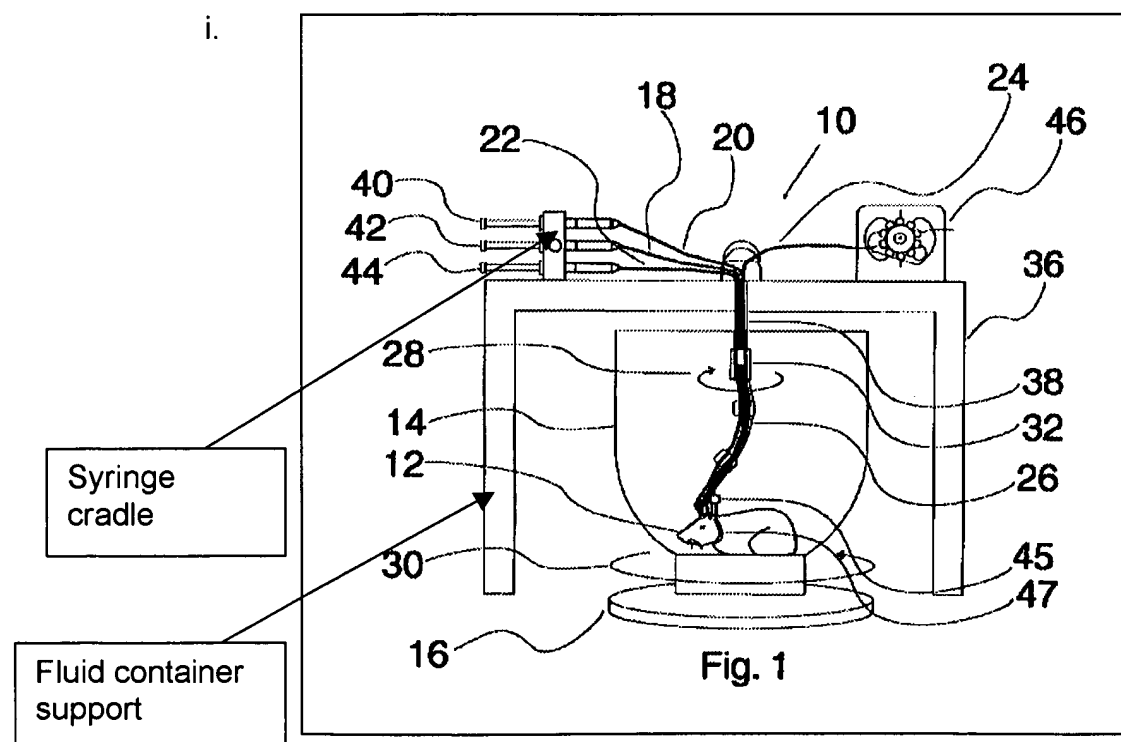
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5816256 (hereinafter called 256).

d. Re claim 11, 256 discloses a housing 14 sized to receive an animal 12. 256 also discloses a fluid container support 36 this is a fluid container support because 46 has fluid in it and so does 40, 42, and 44, therefore 36 is a fluid container support. The support is coupled to the housing 14 via the leads and tubing which enter the animal and attach to the animal, which is coupled to the housing via its feet or body at least. Also 256 discloses a syringe cradle coupled to the fluid container support as seen around 40, 42, and 44 which are syringes. See the figure below for further explanation.

i.



***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 3,897,751 (hereinafter called 751) in view of 256.

e. Re claim 1, 751 discloses a housing with front, rear, bottom, and two side panels 14, being sized to receive an animal. Also 751 discloses a fluid container support 34, however 751 may not specifically disclose a syringe cradle coupled to the housing or the fluid container support. But, 751 discloses infusing or injecting animals with a syringe as seen in number 31. Also 256 does teach of a syringe cradle that is used to hold syringes for the treatment of an animal and the infusion or injection of animals at least in the figure number 1. This figure shows the syringe cradle that is coupled to a fluid container support and also coupled to a housing via the tubing going to the animal. Therefore it would have been obvious to one of ordinary skill in the art to have applied the teachings of 256 (syringe cradles) to the device of 751 so as to hold the syringe stable and attach it to the other apparatus so as to allow for greater mobility and portability of the apparatus. This allows the cage and syringe to be carried without risk of unintentional removal of the catheter from the animal. For further reasoning and further arguments see the response to the applicant's arguments above.

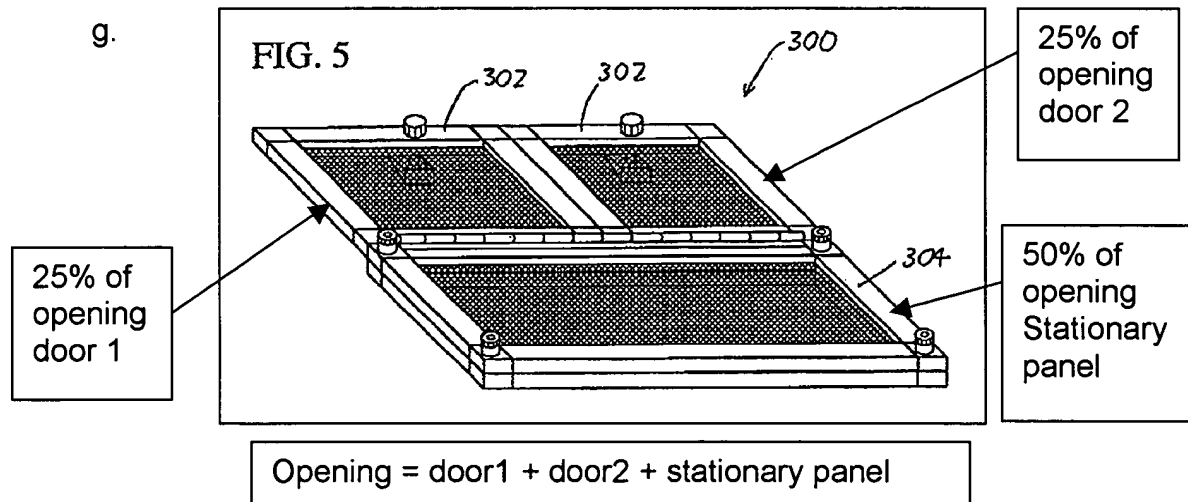
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7. Claims 2, 3, 7, 9, 10, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over 751 in view of 256, as applied above, and further in view of Thrun (US 6,349,675) hereinafter called 675.

f. Regarding claims 2, 7, and 14, 751 as modified by 256 discloses the top panel 16. 751 may not disclose a first and second top panel hingedly attached and coupled to the housing. However 675 discloses a first and second top panel hingedly attached to the housing ((fig 5), and that the panels are selectively positionable to cover at least a portion of the opening, as they can be opened independently of one another (col 6, lines 26-30). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of 675 to the invention of 751 as modified by 256, as the purpose of the doors disclosed by 675 is to allow access to the interior of the enclosure. 751 as modified by 256 discloses a top panel (16 of 751). 751 may not disclose a first and second top panel hingedly attached and coupled to the housing, or that the panels in a closed position cover less than one hundred percent of the top opening. However 675 discloses a first and second top panel hingedly attached to the housing ((fig 5), and that the panels are selectively positionable to cover at least a portion of the opening, as they can be opened independently of one another (col 6, lines 26-30) 675 also discloses that the panels cover less than one hundred percent of the top portion in the closed position (fig 5). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of 675 to the

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invention of 751 as modified by 256 in order allow access to the interior of the enclosure without allowing a wide area to minimize the risk of lab equipment falling in on the animal and injuring it while the enclosure is open. This would also stop any other escaped animals from getting into the cage with the one being treated. For further proof that the doors cover less than 100 percent of the top opening when in the closed position, see figure 5 of 675 which shows the doors 302 only cover approximately 50 percent of the opening which is covered by the entire apparatus shown in figure 5. The section 304 is not a door and covers the other 50 percent of the opening. The section 304 is called a "stationary panel". Also the examiner maintains that the device of 675 is concerned with housing an animal and is analogous art. See below.



h. Regarding claim 3, 751 discloses a securing device 20, which can be defined as a clasp, as it is holding the unit in place by a gripping means.

i. Regarding claim 15, 751 as modified by 256 discloses a top panel (16 of 751).



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751 does not disclose a first and second top panel hingedly attached and coupled to the housing, or that the panels in a closed position cover less than one hundred percent of the top opening. 675 discloses a first and second top panel hingedly attached to the housing ((fig 5), and that the panels are selectively positionable to cover at least a portion of the opening, as they can be opened independently of one another (col 6, lines 26-30) 675 also discloses that the panels cover less than one hundred percent of the top portion in the closed position (fig 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of 675 to the invention of 751 as modified by 256 in order allow access to the interior of the enclosure without allowing a wide area to minimize the risk of lab equipment falling in on the animal and injuring it while the enclosure is open. This would also stop any other escaped animals from getting into the cage with the one being treated. For further proof that the doors cover less than 100 percent of the top opening when in the closed position, see figure 5 of 675 which shows the doors 302 only cover approximately 50 percent of the opening which is covered by the entire apparatus shown in figure 5. The section 304 is not a door and covers the other 50 percent of the opening. The section 304 is called a "stationary panel". Also the examiner maintains that the device of 675 is concerned with housing an animal and is analogous art.

j. Regarding claim 9, 751 discloses a fluid container support 34 coupled to the housing 14.

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- k. Regarding claim 10, 751 discloses a syringe 31. 751 may not disclose a syringe cradle coupled to the housing or the fluid container. However 256 discloses a syringe cradle (see fig 1 above). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of 256 to the invention of 751 so as to hold the syringe stable and attach it to the other apparatus so as to allow for greater mobility and portability of the apparatus. This allows the cage and syringe to be carried without risk of unintentional removal of the catheter from the animal. For further reasoning and further arguments see the response to the applicant's arguments above.
8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over 751 in view of Chung as applied to claim 1 above, and further in view of Peterson USPN 5988110 (hereinafter called 110).
- l. Re claim 6, 751 as modified discloses a window 14. 751 may not disclose a grate covering the window. However 110 teaches a grate (col 2, line 55). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of 110 with the invention of 751 as modified in order to create a cage which would not restrict airflow to the animal. For proof that 14 is a window, it is a transparent object meant to be seen through which is solid.
9. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over 751 in view of 256 as applied above, and further in view of Carlin (US D 297,471).

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m. Regarding claims 16 and 18, 751 as modified above by 256 discloses a housing 10 with a syringe cradle attached (256 as seen in the figure as seen in the rejection of claim 11 above). 751 as modified may not disclose a post, however Carlin teaches of a post (fig 3). Therefore It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Carlin to the invention of 751 as modified in order to provide a secure means of support for the syringe cradle which would also be out of reach of the animal being treated and also allow for gravity to help the flow of fluid by being in a high position.

n. Regarding claims 17 and 19, 751 as modified by 256 discloses the fluid container support 34. However 751 as modified may not disclose that the fluid container support is crook-shaped. However Carlin teaches that the support is crook-shaped (fig 3). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Carlin to the invention of 751 as modified in order to hold items in a secure and stable position at a high position such that gravity will allow the flow to occur more easily with less risk of any blockages. A crook shaped pole is well known to be used in therapeutic treatment settings such as this one. The examiner takes official notice that crook shaped poles are also used in IV's in hospitals.

10. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over 256 in view of 751.

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o. Re claim 1, 256 discloses a housing sized to receive an animal as seen in figure 1 at least at number 14, a fluid container support 36 this is a fluid container support because 46 has fluid in it and so does 40,42, and 44, therefore 36 is a fluid container support. The support is coupled to the housing 14 via the leads and tubing which enter the animal and attach to the animal, which is coupled to the housing via its feet or body at least. Also 256 discloses a syringe cradle coupled to the fluid container support as seen around 40,42, and 44 which are syringes. See the figure in the rejection of claim 11 in the beginning of this action for further explanation. 256 however may not specifically state that the housing has a front, rear, bottom, and two side panels, but 751 does teach of these at least in figure 1 at numbers 14. Therefore it would have been obvious to one of ordinary skill in the art to have applied the teachings of 751 into the device of 256 so as to make the animal housing square to make it cheaper to manufacture out of flat pieces of material instead of out of curved pieces which are more expensive. This also allows for easier cleaning, because the flat pieces can be squeegeed more easily.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPN 6062224 discloses an animal housing and apparatus.

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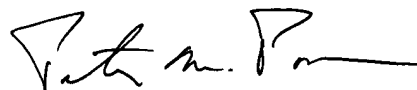
Note: Once again the examiner regrets the delay in prosecution however a new grounds of rejection have been made and therefore the action is made non-final and prosecution is reopened.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D Collins whose telephone number is 703-306-9160. The examiner can normally be reached on M-Th, 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4180.

Timothy D. Collins  
Patent Examiner  
Art Unit 3643

A handwritten signature in black ink, appearing to read "Peter M. Poon", with a stylized, cursive script.

Peter M. Poon  
Supervisory Patent Examiner  
Technology Center 3600

12/17/03